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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,758	09/10/2003	Andrew J. Czuchry JR.	2825063-000004	3484
44777	7590	10/29/2007		
W. EDWARD RAMAGE COMMERCE CENTER SUITE 1000 211 COMMERCE ST NASHVILLE, TN 37201			EXAMINER HAIDER, FAWAAD	
			ART UNIT 3627	PAPER NUMBER
			MAIL DATE 10/29/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/659,758	<b>Applicant(s)</b> CZUCHRY ET AL.	
	<b>Examiner</b> Fawaad Haider	<b>Art Unit</b> 3627	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 August 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.  
4a) Of the above claim(s) 12-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 12-22 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some    \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Election/Restrictions***

1. Applicant's election with traverse of claims 1-22 in the reply filed on 8/8/2007 is acknowledged. The traversal is on the ground(s) that it could be amended. This is not found persuasive because no amendment was made.

The requirement is still deemed proper and is therefore made FINAL.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drugstore.com dated October 13, 1999, and further in view of Lefeber (US Patent Application Publication 2002/0046299 A1).

Re Claim 1: Drugstore discloses a central server including a database of at least one consumer profile identifying a consumer and at least one commodity good for usage tracking and replenishment with use information therefor (see Page 8); and an evaluator for periodically determining from the use information a remaining inventory amount of the at least one commodity good, such that upon determining a low inventory

for the at least one commodity good may exist, a reorder reminder message communicates via the messaging transceiver to the consumer (see Page 8).

Lefebber discloses a messaging transceiver for receiving and transmitting messages between the central server and the consumer and selectively operated by the central server and by the consumer (see Abstract and Figures 1 and 2); wherein the consumer return communicates the unchanged reorder reminder message via the messaging transceiver to the central server to effect the reorder (see Abstract and Figures 1 and 2). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Drugstore's invention with Lefebber's use of a messaging transceiver and the communication of the unchanged reorder reminder message in order to provide a convenience for the customer of not having to remember to order refills or other commodities as well as communicating wireline or wireless.

Re Claims 2-3, 7: Lefebber discloses wherein the messaging transceiver comprises an electronic mail device (see Figure 2). Lefebber discloses wherein the messaging transceiver is a PDA device (see Page 1, Para 0005, line 4 and Figure 2). Lefebber discloses wherein the modification means comprises an interactive communications device capable of receiving an instruction from the consumer to effect a change in the reorder reminder message (see Figure 2). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Drugstore's invention with Lefebber's use of a e-mail, PDAs, and a modification means in order to provide a convenience for the customer of not having to remember to order refills or other commodities as well as communicating wireline or wireless.

Re Claim 4: Drugstore discloses wherein the use information includes for each commodity good to be tracked a prior order number date, a prior order number quantity, and a usage rate, whereby the evaluator can determine whether the low inventory may exist (see Page 8).

Re Claim 5: Drugstore discloses further comprising a warehouse for obtaining the commodity goods for shipment to the consumer responding to the re-order reminder message (see Page 8).

Re Claim 6: Drugstore discloses further comprising modification means for the consumer to modify the reorder reminder message prior to the selective return communication of the reorder reminder message (see Page 8).

Re Claim 8: Drugstore discloses wherein the instruction effects the addition of an unlisted commodity good (see Page 8).

Re Claim 10: Drugstore discloses wherein the instruction effects a change in the amount of the commodity goods ordered (see Page 8).

Re Claim 11: Drugstore discloses wherein the instruction adds a commodity good to be tracked by the central processor for a subsequent reorder reminder message (see Page 8).

4. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Drugstore and Lefebvre, and further in view of Rosenberg et al (US Patent 6,418,416 B1).

Re Claim 9: Rosenberg discloses wherein the instruction effects a change in the minimum inventory for the commodity goods (see Col 6, line 21). It would have been

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obvious to one of ordinary skill in the art at the time of the invention to have provided the combination of Drugstore and Lefeber with apparatus and method of Rosenberg to enable the instruction effects a change in the minimum inventory for the commodity goods. In that regard, the inventory levels would be maintained as necessary to provide commodity products to customers - with no delays resulting from an out of stock condition and thereby forcing the customer to go elsewhere. Moreover, this inventory technique will ensure that minimum inventory levels are maintained and commodity products available for customer and in that manner increase their satisfaction as well increasing the probability of additional sales.

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fawaad Haider whose telephone number is 571-272-7178. The examiner can normally be reached on Monday-Friday 7:30-5:00.

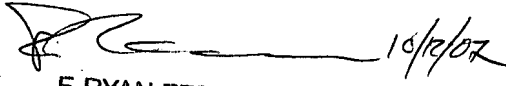
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Fawaad Haider  
Examiner  
Art Unit 3627

FIH

 10/12/07  
F. RYAN ZEENDER  
SUPERVISORY PATENT EXAMINER